

FILED

FEB 07 2014

CITY CLERK

SPECIAL ORDINANCE NO. 3, 2014

AN ORDINANCE VACATING A PORTION OF A PUBLIC ALLEY LOCATED IN THE  
CITY OF TERRE HAUTE, VIGO COUNTY, INDIANA

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana:

Section 1. Pursuant to the provisions of I.C. 36-7-3-12, it I desired and deemed necessary to vacate a portion of a public alley located in the City of Terre Haute, Vigo County, Indiana, which is now laid out and existing in the City of Terre Haute, Indiana, and described as follows:

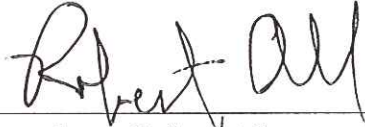
SEE EXHIBIT A.

Section 2. Be it further ordained that said alleyway in the City of Terre Haute, Indiana, above-described, be and the same is hereby vacated and will revert to the abutting property owners, subject to the continuation of any and all existing easements for public utilities.

Section 3. Be it further ordained that the City Clerk be, and hereby is directed to furnish a copy of this ordinance to the Recorder of Vigo County, Indiana, for recording and to the Auditor of Vigo County, Indiana.

WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member:

  
Councilman Robert All

Passed in Open Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Amy Auler, President

ATTEST:

\_\_\_\_\_  
Charles P. Hanley, City Clerk

Presented by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

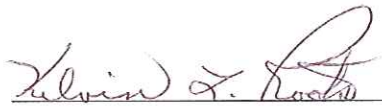
\_\_\_\_\_  
Charles P. Hanley, City Clerk

Approved by me, the Mayor, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Duke A. Bennett, Mayor

Attest: \_\_\_\_\_, Charles P. Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

  
\_\_\_\_\_  
Kelvin L. Roots  
WILKINSON, GOELLER,  
MODESITT, WILKINSON &  
DRUMMY LLP  
333 Ohio Street  
Terre Haute, IN 47807  
Ph: (812) 232 - 4311

This instrument prepared by: Kelvin L. Roots, Attorney, Wilkinson, Goeller, Modesitt,  
Wilkinson & Drummy LLP, 333 Ohio Street, Terre Haute, IN 47807.

## **EXHIBIT A**

### *Description of Alley to be Vacated*

All lots referred to are located in Indian Acres Subdivision, being a part of the North West quarter of the North East Quarter of Section 35, Township 12 North, Range 9 West, in Terre Haute, Vigo County, Indiana.

Commencing at the Northeast corner of Lot 1.

Thence easterly to the Northwest corner of Lot 23.

Thence southerly with the West line of Lot 23, to the Southwest Corner of Lot 23.

Thence westerly to the Southeast corner of Lot 3.

Then northerly with the East lines of Lots 3, 2, and 1 to the point of beginning.

**PETITION FOR VACATION OF PUBLIC ALLEYWAY**

TO THE PRESIDENT AND MEMBERS OF THE  
COMMON COUNCIL OF THE CITY OF TERRE HAUTE,  
VIGO COUNTY INDIANA

The Undersigned Petitioner, Pearly Lavon Enterprises, LLC, as the owner of lands abutting a certain alleyway platted in the City of Terre Haute, Indiana, respectfully petition and request the legislative body of the City of Terre Haute, Indiana, to vacate that portion of the public alleyway described below pursuant to the provisions of I.C. 36-7-3-12, and in support of this Petition would show to the Common Council of said City as follows:

1. Petitioner is the owner of the following described real estate located in Vigo County, State of Indiana:

Lot 23, in Indian Acres, as Addition to the City of Terre Haute, Indiana being a Subdivision of part of the North West Quarter of the North East quarter of Section 35, Township 12 North, Range 9 West.  
Parcel No. 84-06-35-201-006.000-002.

Said real estate is commonly known as 2515 Hulman Avenue, Terre Haute, IN 47802, and is generally bounded as follows:

On the north, by Hulman Avenue.

On the west, by an alley running north and south, described as follows:

All lots referred to are located in Indian Acres Subdivision, being a part of the North West quarter of the North East Quarter of Section 35, Township 12 North, Range 9 West, in Terre Haute, Vigo County, Indiana.

Commencing at the Northeast corner of Lot 1.  
Thence easterly to the Northwest corner of Lot 23.  
Thence southerly with the West line of Lot 23, to the Southwest Corner of Lot 23.  
Thence westerly to the Southeast corner of Lot 3.  
Then northerly with the East lines of Lots 3, 2, and 1 to the point of beginning.

On the east, by Lot 24 of Indian Acres Subdivision

On the south, by an alley running east and west between Lot 47 and Lots 23, 24, and 25.



Attached hereto as **EXHIBIT A** is a copy of a portion of a plat showing the subject properties and the public alley which Petitioner seeks to have vacated (alleyway proposed to be vacated is highlighted in yellow).

2. The portions of the public alley and access ways to be vacated are particularly described as follows: **SEE EXHIBIT B.**

Subject to all existing utility easements or rights of utilities in existing facilities.

3. No landowner adjoining and abutting the alleyway to be vacated would be adversely affected by the vacation of said alleyway.

4. Petitioner proposes the vacation of the alley in order to permit usage of the lands for purposes of the rental property located on Petitioner's land, located at 2515 Hulman Avenue, Terre Haute, IN 47802.

5. The proposed vacation would not hinder the use of a public way by the neighborhood in which said portion of the alley is located or to which they are contiguous. All other landowners in the area have and will continue to have access to public ways, and the proposed vacation would not make access to any land by any person by means of a public way difficult or inconvenient; nor would said vacation hinder any member of the public's access to a church, school or other public building or place.

6. The names and addresses of all owners of land that abut that portion of the alleyway Above proposed to be vacated are as follows:

- a. TIC Woodbridge 11 LP  
1700 S. 25<sup>th</sup> Street  
Terre Haute, IN 47802
- b. TIC Woodbridge 11 LP  
1716 S. 25<sup>th</sup> Street  
Terre Haute, IN 47802

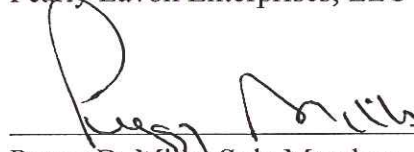
WHEREFORE, Petitioners respectfully request and petition the Common Council of the City of Terre Haute, Indiana, after hearing on this Petition in accordance with law to:

- a. Adopt an Ordinance vacating that portion of the alleyway referred to and described above;

- b. Cause the Clerk of the City of Terre Haute to furnish copies of said Vacation Ordinance to the County Recorder of Vigo County for recording and to the County Auditor, and thereupon cause the Recorder to release said ordinance to the Vigo County Area Planning Department for distribution in accordance with paragraph 10-125 of the City's Zoning Ordinance; and
- c. For all other just and proper relief on the premises.

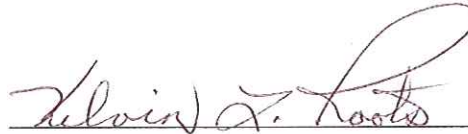
Respectfully Submitted,

Pearly Lavon Enterprises, LLC



Peggy D. Mills, Sole Member  
21547 E. Macke Road  
Marshall, IL 62441

I have prepared the foregoing instrument and I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

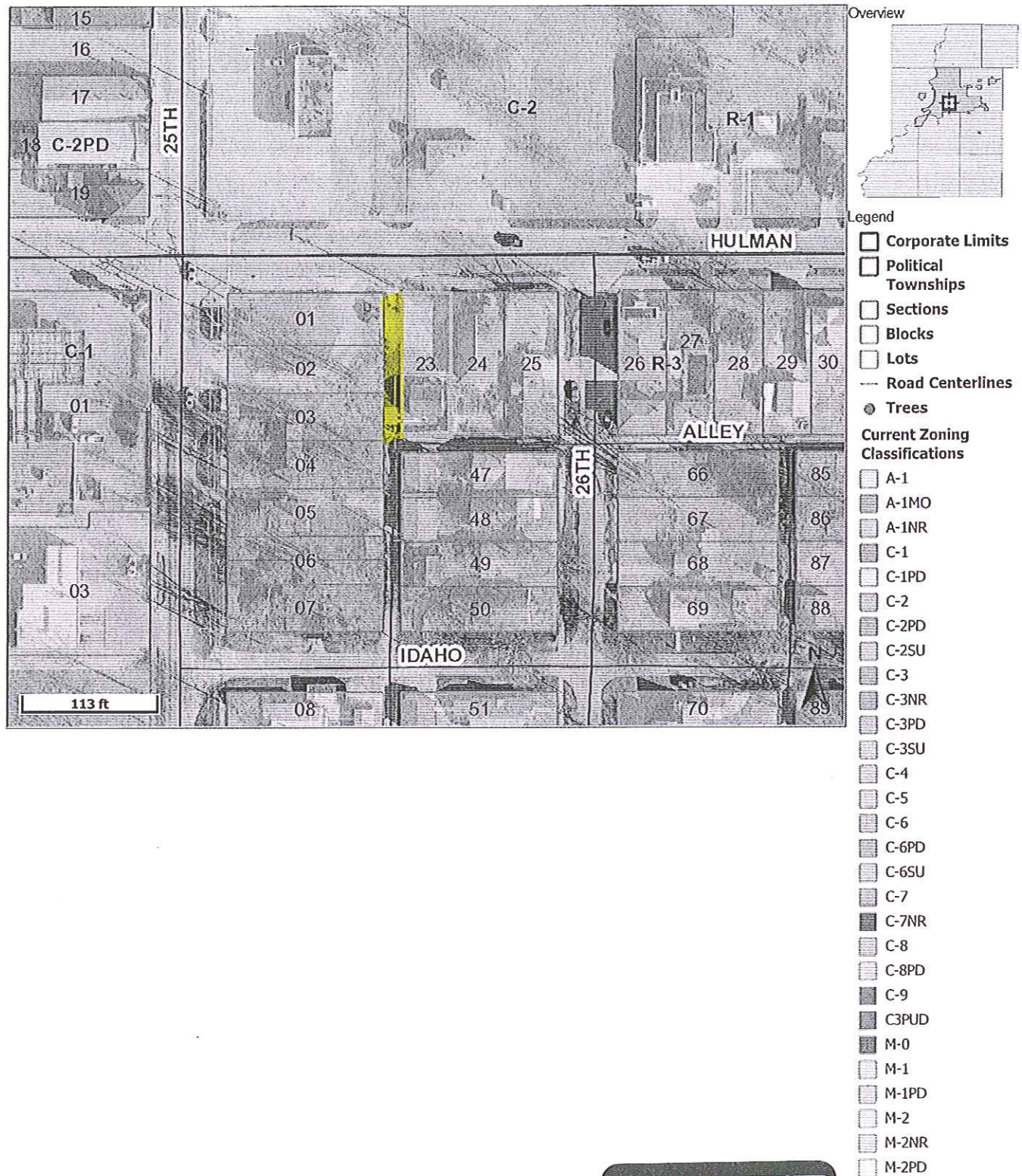


Kelvin L. Roots  
WILKINSON, GOELLER, MODESITT,  
WILKINSON & DRUMMY LLP  
Terre Haute, IN 47807  
Ph: (812) 232 - 6003

This instrument prepared by: Kelvin L. Roots, Attorney, Wilkinson, Goeller, Modesitt, Wilkinson & Drummy LLP, 333 Ohio Street, Terre Haute, IN 47807.



Date Created: 1/31/2014



## **EXHIBIT B**

### *Description of Alley to be Vacated*

All lots referred to are located in Indian Acres Subdivision, being a part of the North West quarter of the North East Quarter of Section 35, Township 12 North, Range 9 West, in Terre Haute, Vigo County, Indiana.

Commencing at the Northeast corner of Lot 1.

Thence easterly to the Northwest corner of Lot 23.

Thence southerly with the West line of Lot 23, to the Southwest Corner of Lot 23.

Thence westerly to the Southeast corner of Lot 3.

Then northerly with the East lines of Lots 3, 2, and 1 to the point of beginning.



**AFFIDAVIT**

**OF**

**PEGGY D. MILLS**

**SOLE MEMBER, PEARLY LAVON ENTERPRISES, LLC**

COMES NOW, Peg D. Mills ("Affiant"), and affirms under the penalties of law that:

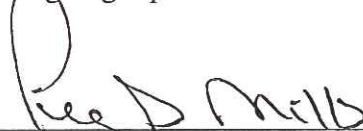
1. Affiant is the Sole Member of Pearly Lavon Enterprises, LLC and is duly authorized to represent and make this Affidavit for an on behalf of Pearly Lavon Enterprises, LLC.
2. Pearly Lavon Enterprises, LLC is a Limited Liability Company lawfully organized and existing under the laws of the State of Indiana.
3. In Affiant's capacity as a Member of Pearly Lavon Enterprises, LLC, she is in charge of and is familiar with the properties owned by Pearly Lavon Enterprises, LLC. Affiant represents and warrants that Pearly Lavon Enterprises, LLC is the owner of record of the following parcel of real estate:

Lot 23, in Indian Acres, as Addition to the City of Terre Haute, Indiana being a Subdivision of part of the North West Quarter of the North East quarter of Section 35, Township 12 North, Range 9 West.  
Parcel No. 84-06-35-201-006.000-002.

Said real estate is commonly known as 2515 Hulman Avenue, Terre Haute, IN 47802.

4. Attached hereto is the copy of Deed evidencing such ownership.

I affirm, under the penalties for perjury, that the foregoing representations are true.



---

Peg D. Mills, Sole Member  
Pearly Lavon Enterprises, LLC

STATE OF INDIANA       )  
                                  SS:  
COUNTY OF VIGO       )

Personally appeared before me, a Notary Public in and for said County and State, Peggy D. Mills, Sole Member of Pearly Lavon Enterprises, LLC, who acknowledges the execution of the above and foregoing Affidavit, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and notarial seal this 4<sup>th</sup> day of February, 2014.

Kristina R. Tumm  
Notary Public

My Commission Expires

8/9/2017

County of Residence


Clay

Kristina R. Tumm  
Notary Public

DUTY ENTERED FOR TAXATION  
Subject to final acceptance for transfer

JUN 04 2012

  
VIG COUNTY AUDITOR

2012008241 TT \$18.00  
06/04/2012 03:20:19P 2 PGS  
NANCY S. ALLSUP  
VIGO County Recorder IN  
Recorded as Presented  


TRUSTEE'S DEED

THIS INDENTURE WITNESSETH, that Ted E. Moore, as trustee of the Ted E. Moore Living Trust u/a/d 10/26/93, ("Grantor") of Vigo County, in the State of Indiana, CONVEYS AND WARRANTS to Perly Levon Enterprises, LLC, an Indiana limited liability company for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate located in Vigo County, in the State of Indiana:

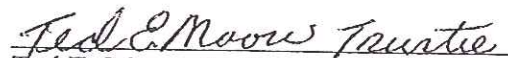
Lot 23, in Indian Acres, as Addition to the City of Terre Haute, Indiana being a Subdivision of part of the North West quarter of the North East quarter of Section 35, Township 12 North, Range 9 West.

Commonly known as 2515 Hulman Avenue, Terre Haute, IN 47802

Subject to all taxes now a lien prorated to the date hereof and all subsequent taxes.

Grantor, Ted E. Moore, Trustee represents and warrants that the Ted E. Moore Living Trust u/a/d 10/26/93, is now in effect, that this instrument is in accordance with the trust provisions, and that the trustee has the power to execute and deliver the deed.

IN WITNESS WHEREOF, Grantor has executed this Trustee's Deed this 29<sup>th</sup> day of May 2012.

  
Ted E. Moore As Trustee Of The  
Ted E. Moore Living Trust u/a/d  
10/26/93





## Receipt

The following was paid to the City of Terre Haute, Controller's Office.

Date: February 7, 2014

Name: Reg Mills / Pearley Savon Ent. LLC

Reason: Vacating on Alley # 5<sup>00</sup>

TERRE HAUTE, IN  
PAID

FEB 07 2014

CONTROLLER

Cash: \_\_\_\_\_

Check: \$ 5.00

Credit: \_\_\_\_\_

Total: \$ 5.00

Received By: Melissa Dowell/RE